

CHANGE REQUEST COVER SHEET

Change Request Number: 09-82

Date Received: 7/2/2009

Title: Clarification of Prompt Payment and Interest Requirements

Name: Jeffrey Baker

Phone: 202-493-5723

Policy OR Guidance: Guidance

Section/Text Location Affected: AMS Procurement Guidance T3.3.1

Summary of Change: Clarification of Prompt Payment and Interest Requirements

Reason for Change: To clarify FAA's obligation to interest under AMS's Prompt Payment requirements.

Development, Review, and/or Concurrence: AGC, AFM, AJA-43, AJA-431, AJA-45

Target Audience: FAA Acquisition Workforce

Potential Links within FAST for the Change: None

Briefing Planned: No

ASAG Responsibilities: None

Potential Links within FAST for the Change: None

Links for New/Modified Forms (or) Documents (LINK 1)

Links for New/Modified Forms (or) Documents (LINK 2)

Links for New/Modified Forms (or) Documents (LINK 3)

SECTIONS EDITED:

Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment

Contract Funding, Financing & Payment

Section 12 : Prompt Payment [\[Old Content\]](#)[\[New Content\]](#) [\[RedLine Content\]](#)

SECTIONS EDITED:

T3.3.1 - Contract Funding, Financing & Payment (Revision 6, January 2008)

Old Content: Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment (Revision 6, January 2008) New Content:
Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment Red Line Content: Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment (~~Revision 6, January 2008~~)

Section 12 : Prompt Payment

Old Content: Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment

Contract Funding, Financing & Payment

Section 12 : Prompt Payment

a. *Discount for Prompt Payment.* The CO is encouraged to include meaningful discounts for prompt payment in contracts whenever possible. Decisions to accept or not accept a prompt payment discount are made by the cognizant accounting office based on the value of the discount offered. There is no minimum time period for which discounts will be taken. Any discount will be taken if determined cost effective by the accounting office.

b. *Due Date for Payment.* For the sole purpose of computing an interest penalty that might be due the contractor, the CO may establish a period for constructive acceptance that reflects the minimum necessary for inspection or testing. The period should be no shorter than 7 days nor longer than 30 days after the contractor has delivered products or performed services in accordance with the terms and conditions of the contract. The contract can state a different period for actual acceptance.

(1) The due date for most transactions, (e.g. single [lump sum] payments, partial payments, etc.) will be not later than the 30th day after FAA receives a proper invoice as designated in the contract, or not later than the 30th day after products are delivered or services rendered to FAA acceptance point, whichever is

later. Longer due dates may be specified for inspection, demonstrations or timed events.

(2) For all progress payments except construction, the due date will be not later than the 30th day after FAA approval of contractor estimates of work or of services accomplished. For the sole purpose of computing interest penalty that might be due the contractor, FAA approval may be deemed to have occurred constructively on the 7th day after the contractor estimates are received with all necessary supporting documentation by FAA.

(3) Progress payments under construction contracts will be due not later than the 14th day after receipt of a proper invoice (including required supporting documentation as designated in the contract). The CO has the discretion to specify a longer period (a period longer than 30 days may not be prescribed) if more time is required to afford FAA a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract.

(4) For payment of any amounts retained by the CO, the due date will be not later than the 30th day after approval by the CO for release to the contractor. There is no provision for constructive acceptance.

(5) Final Payments will be due not later than the 30th day after FAA receives a proper invoice in the designated billing office, or not later than the 30th day after FAA acceptance of the work or services, whichever is later. On final payments where the amount is subject to contract settlement actions, acceptance should be deemed to have occurred on the effective date of the contract settlement.

c. Interest.

(1) The FAA may automatically pay interest without request from the contractor, when all of the following conditions, if applicable, have been met:

(a) A proper invoice as specified in the contract has been received;

(b) There is no disagreement over quantity, quality, or contractor compliance with any contract requirement;

(c) In the case of a final invoice, the payment amount is not subject to further contract settlement actions between FAA and the contractor;

(d) FAA paid the contractor after the due date;

(e) Interest owed is over \$1.00 in value; and

(f) No off-set action has been filed by an appropriate Federal jurisdiction (such as IRS or DOL).

- (2) Interest is not required on payment delays due to:
 - (a) Defective invoices;
 - (b) Disagreement between FAA and contractor over payment amount;
 - (c) Issues involving contract compliance; or
 - (d) Amounts temporarily withheld or retained in accordance with the terms of the contract.
- (3) No interest will be paid to the contractor as a result of delayed contract financing payments.
- (4) The interest paid will be at the rate established by the Secretary of the Treasury referred to as the "Renegotiation Board Interest Rate."

d. *Interim Voucher for Time-and-Material, Labor-Hour, and Cost Reimbursement Services.*

- (1) Contractors awarded time-and-material (T&M), labor-hour (LH), or cost reimbursement contracts are generally authorized to seek payment during the course of the contract.
- (2) An interim voucher is a contractor's request for payment during the course of performance under a T&M, LH, or cost reimbursement contract, but excluding the final payment. Interim vouchers are considered a form of contract financing; however, interest penalties must be paid on late payments for interim vouchers under T&M, LH, or cost reimbursement service contracts.
- (3) For purposes of computing late payment interest penalties for interim vouchers, the due date for payment is the 30th day after FAA receives a proper invoice.
- (4) If the invoice is found to be improper, it must be returned within 7 days after the date FAA receives the invoice.

e. *Acceptance.* For payment purposes, FAA acceptance should be documented on either a receiving report or by a certified invoice. The receiving report or certified invoice should be forwarded immediately to the accounting office with a copy to the CO, and each should receive it no later than the 5th working day after FAA acceptance or approval, unless other arrangements have been made. This period of time does not extend the payment due dates prescribed in the contract. The receiving report or certified invoice should, as a minimum, include the following:

- (1) Contract number or other authorization for products delivered or services performed;
- (2) Description of products delivered or services performed;

- (3) Quantities of products received and accepted, if applicable;
- (4) Date products delivered or services performed;
- (5) Date products or services were accepted by the designated FAA official (or progress payment request was approved); and
- (6) Signature and printed name of the designated FAA official responsible for acceptance or approval.

New Content: Procurement Guidance:

T3.3.1 - Contract Funding, Financing & Payment

Contract Funding, Financing & Payment

Section 12 : Prompt Payment

a. *Discount for Prompt Payment.* The CO is encouraged to include meaningful discounts for prompt payment in contracts whenever possible. Decisions to accept or not accept a prompt payment discount are made by the cognizant accounting office based on the value of the discount offered. There is no minimum time period for which discounts will be taken. Any discount will be taken if determined cost effective by the accounting office.

b. *Due Date for Payment.* For the sole purpose of computing an interest penalty that might be due the contractor, the CO may establish a period for constructive acceptance of products and services that reflects the minimum necessary for inspection or testing. The period should be within 7 days after the contractor has delivered products or performed services in accordance with the terms and conditions of the contract. The CO may negotiate a longer period of acceptance, which must be stated in the contract.

(1) The due date for most invoice payments, (e.g. single [lump sum] payments, partial payments, etc.) will be not later than the 30th day after FAA receives a proper invoice as designated in the contract, or not later than the 30th day after products are delivered or services rendered to FAA acceptance point, whichever is later. Longer due dates may be specified for inspection, demonstrations or timed events.

(2) For all progress payments except construction, the due date will be not later than the 30th day after FAA approval of contractor estimates of work or of services accomplished. For the sole purpose of computing interest penalties due the contractor, FAA approval may be deemed to have occurred constructively on the 7th day after the contractor estimates are received with all necessary supporting documentation by FAA.

(3) Progress payments under construction contracts will be due not later than the 14th day after receipt of a proper invoice (including required supporting documentation as designated in the contract). The CO has the discretion to specify a longer period (a period longer than 30 days may not be prescribed) if more time is required to afford FAA a reasonable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract.

(4) For payment of any amounts retained by the CO, the due date will be not later than the 30th day after approval by the CO for release to the contractor. There is no provision for constructive acceptance.

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c. Interest.

(1) The contractor is entitled to interest penalties if payments are made after the payment due date. The FAA may automatically pay interest without request from the contractor, when all of the following conditions, if applicable, have been met:

(a) A proper invoice as specified in the contract has been received;

(b) There is no disagreement over quantity, quality, or contractor compliance with any contract requirement;

(c) In the case of a final invoice, the payment amount is not subject to further contract settlement actions between FAA and the contractor;

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(f) No off-set action has been filed by an appropriate Federal jurisdiction (such as IRS or DOL).

(2) Interest is not required on payment delays due to:

(a) Defective invoices;

(b) Disagreement between FAA and contractor over payment amount;

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(d) Amounts temporarily withheld or retained in accordance with the terms of the contract.

(3) No interest will be paid to the contractor as a result of delayed contract financing payments.

(4) The interest paid will be at the rate established by the Secretary of the Treasury referred to as the "Renegotiation Board Interest Rate."

(5) Interest will not accrue for more than one year.

d. *Interim Voucher for Time-and-Material, Labor-Hour, and Cost Reimbursement Services.*

(1) Contractors awarded time-and-material (T&M), labor-hour (LH), or cost reimbursement contracts are generally authorized to seek payment during the course of the contract.

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Red Line Content: Procurement Guidance:

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